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8 Attorneys for Defendant  
EXPERIAN INFORMATION SOLUTIONS, INC.

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

12 ROANE HOLMAN, NARCISCO  
13 NAVARRO HERNANDEZ, MIGUEL A.  
ALVAREZ,

14 Plaintiffs,

15 v.

16 EXPERIAN INFORMATION SOLUTIONS,  
17 INC.

18 Defendant.

Case No. CV-11-00180-CW

Assigned to the Honorable  
Claudia Wilken

**DECLARATION OF JESSE A.  
ENRIQUEZ IN SUPPORT OF  
EXPERIAN INFORMATION  
SOLUTIONS, INC.'S OPPOSITION  
TO PLAINTIFFS' MOTION FOR  
CLASS CERTIFICATION**

Hearing: January 26, 2012  
Time: 2:00 p.m.  
Courtroom 2

1 I, Jesse Enriquez, declare as follows:

2 1. I am currently the Vice President of Operations for the towing company Girard &  
3 Peterson, Inc., in Burbank, California. I have held this position since 1982. I make this  
4 declaration in support of Experian's Memorandum of Points and Authorities in Opposition to  
5 Plaintiffs' Motion for Class Certification. I have personal knowledge of the facts stated in this  
6 declaration and, if called as a witness, I could and would testify competently to them.

7 2. I have worked in the towing industry for forty years, and for the past ten years I  
8 have been an elected member of the Board of Directors of the California Tow Truck Association  
9 ("Association"). The Association is a state-wide association of professional towing operators that  
10 was formed to improve the quality of towing and other related services provided to the motoring  
11 public and to otherwise represent the interests of its members. I regularly attend board meetings  
12 of the Association and vote on issues pending before the Association on behalf of the Los  
13 Angeles chapter. The board votes on matters such as (i) what standards the Association should  
14 propound regarding best practices and procedures in the towing industry, and (ii) whether the  
15 Association should support certain legislative matters involving the towing industry. I also have  
16 published numerous articles regarding the towing industry and provided training to members of  
17 the Association regarding best practices and procedures in the industry.

18 3. I have testified and been qualified as an expert witness regarding the towing  
19 industry in various proceedings, including civil court actions and California Highway Patrol  
20 hearings. In court actions, I have testified on behalf of both plaintiffs and defendants regarding  
21 the standard of care in the towing industry. In California Highway Patrol hearings, I have  
22 testified regarding best practices and procedures in the towing industry on behalf of tow truck  
23 companies and operators who have been suspended or reprimanded by the California Highway  
24 Patrol. Attached as Exhibit 1 hereto is a true and correct copy of my CV.

25 4. Through my work as Vice President of Operations of Girard & Peterson, Inc., and  
26 Director of the Los Angeles Chapter of the Association, I have interacted with many owners and  
27 operators of towing companies from around the state and am familiar with their practices and  
28 procedures, including their practices related to the collection of unpaid towing and storage costs.

1           5.       When a towing company has towed a vehicle but is unable to recover the towing  
2 and storage costs from the vehicle's owner, that towing company has the right under certain  
3 circumstances to sell the vehicle at a lien sale and apply the proceeds to the unpaid towing and  
4 storage costs. When the proceeds of the lien sale are insufficient to cover the towing and storage  
5 costs, the towing company sometimes will retain a collection agency, such as Finex Group LLC  
6 ("Finex"), to attempt to recover the deficiency from the vehicle's owner.

7           6.       The towing debts that are sent to collection agencies such as Finex can arise in a  
8 number of different situations. Some of these debts result from towings made at the direction of  
9 law enforcement, such as police impoundments of vehicles that have been illegally parked or  
10 abandoned by their owners. However, there are at least seven different types of towing debts that  
11 are expressly requested and initiated by the consumer:

12           (a)       Where the owner has requested that the vehicle be towed (*e.g.*, to a mechanic) but  
13 is unable to provide proper payment when the tow truck reaches the destination, the  
14 vehicle would be towed to the tow yard, towing and storage charges would accrue. If the  
15 charges remain unpaid after 72 hours, the vehicle would then be subject to the lien sale  
16 process, and sold at a later date if not redeemed. I understand Finex is claiming that  
17 towing companies always require payment in advance, but that is not true. In fact, many  
18 towing companies, including my own, do not require payment in advance because they  
19 recognize that possession of the vehicle typically ensures payment.

20           (b)       Where the owner has requested a tow through an automobile club membership  
21 (*e.g.*, a AAA membership) and received towing, storage, or other services not covered  
22 under the agreement, and later is unable or unwilling to pay the uncovered costs.

23           (c)       Where the owner has authorized the vehicle be towed to the tow yard, assuming  
24 that their insurance or another party's insurance will cover towing, storage, and/or lien  
25 fees, and later discovers that there is no insurance coverage available to pay for the  
26 services.

27           (d)       Where the owner has requested and paid for a tow with a personal check but the  
28 check later bounces.

1 (e) Where the owner has requested and paid for a tow with a credit card but the  
2 payment is later reversed or rejected.

3 (f) Where the owner of a vehicle that has been involved in an accident has left the  
4 scene (*e.g.*, to go home or to work or to seek medical treatment) but has authorized the  
5 police to have the vehicle towed. In this scenario, the actual towing of the vehicle is made  
6 at the direction of the police, but was requested and initiated by the owner.

7 (g) Where the owner has been placed under arrest but has authorized the police to  
8 have the vehicle towed. This scenario can arise where the police do not have any lawful  
9 grounds for impounding the vehicle; in these situations, the police sometimes will give the  
10 owner the option of having the vehicle towed under an owner's request (as opposed to  
11 simply leaving the vehicle unattended, or having a friend or relative come pick it up).

12 7. The towing debts sent to collection agencies such as Finex include debts arising  
13 from all six of these different types of consumer-initiated towings. My own company, Girard &  
14 Petersen, is a customer of Finex. In my position as Vice President of Operations, I personally  
15 have sent to Finex debts that were the result of consumer-initiated towings.

16 8. Based on my knowledge of the types of debts regularly sent to collection agencies,  
17 both by my company and by other towing companies, I would estimate that between 25 and 30  
18 percent of the towing debts sent to Finex are the result of consumer-initiated towings.

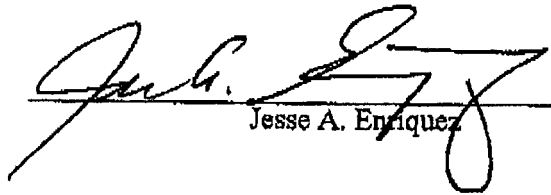
19 9. When a towing company sends debts to a collection agency such as Finex, the  
20 towing company normally does not provide detailed information concerning the circumstances of  
21 the towings that gave rise to those debts. For any particular debt, a towing company typically  
22 provides the collection agency only with information about the underlying lien sale and the  
23 registered ownership of the vehicle. In most cases, therefore, the information provided to the  
24 collection agency will not be sufficient to allow a determination of whether the towing that gave  
25 rise to the debt was consumer initiated or not.

26 10. Before a towing company can sell a towed vehicle in a lien sale, it must provide  
27 notice to the owner. If the owner objects to the lien sale, towing companies will sometimes file  
28 suit, typically in small claims court, and seek a court judgment for the amount owed. In some

1 cases, towing companies will send debts that have been confirmed in court judgments to  
2 collection agencies rather than pursue payment themselves.

3 I declare under penalty of perjury under the laws of the United States and the State of  
4 California that the foregoing is true and correct.

5  
6 Executed on December 28, 2011 at BURBANK, CA

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8   
9 Jesse A. Enriquez

10 LAI-3155903